REMARKS

Claims 1-15 are pending in the above-identified application. By this Amendment, Applicants have amended claims 1, 14, and 15. The amendments to the claims and the newly added claims are supported by the application as originally filed, and do not introduce new matter. Accordingly, entry of the amendments to claims 1, 14, and 15 is respectfully submitted.

Claim Rejections – 35 U.S.C. § 101

The Examiner rejects claim 15 under 35 U.S.C. § 101 insofar as claim 15 does not recite a pre-computer process or post-computer activity. Claim 15 has been amended to recite "receiving at least one trade order" and "updating the investor's position to reflect the executed trade". Claim 15 in its current form therefore recites pre-computer and post-computer activity that produces a tangible result, i.e., a price improvement for executed trades that are reflected in the investor's position. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

The Examiner rejects claim 14 under 35 U.S.C. § 112 insofar as the Examiner is not able to ascertain the meaning of "Liquid Agency". The term Liquid Agency is used in combination with the term "financial instruments" as recited in claim 14 to denote liquid type financial instruments or securities issued or guaranteed by a U.S. Government agency or by a government-sponsored entity, such as the Government National Mortgage Association ("Ginnie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") and Fannie Mae. Liquid Agency financial instruments are also referred to as "agency securities", which were known in the art at the filing of the present application. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-15 are pending in the above-identified application. In the Office Action dated April 8, 2004, the Examiner rejected claims 1-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,905,974 (Fraser, *et al.*) in view of U.S. Patent No. 6,505,174 (Keiser *et al.*). The Applicant respectfully traverses the rejections, and asserts that

the claims pending in the present application, *i.e.*, claims 1-15, are patentable over Fraser and Keiser for at least the reasons stated below.

Fraser discusses a data processing system for implementing transaction management of auction based trading. Abstract. In this respect, Fraser provides a system that provides controlled access to trading commands based on pre-established trading criteria. Col. 4, lines 19-23. Fraser is particularly concerned with providing efficiency with regard to high volume trading. Col. 3, lines 65-67. Unlike Fraser, Keiser discusses a network trading system for trading securities on smaller markets, such as Hollywood securities. Col. 1, lines 32-42; col. 6, lines 49-54. To overcome the imbalance between buy and sell trades that are likely to occur on smaller markets and to provide added liquidity, Keiser provides a virtual specialist that purchases securities when sell orders outnumber buy orders in the system and sells securities held by the virtual specialist when buy orders outnumber sell orders on the system. Col. 12, lines 34-62. Keiser necessarily limits the risk virtual specialists risk with a stop trading function in the event of an excessive imbalance. Col. 13, lines 40-42.

In contrast, the present invention is drawn toward automated trading of financial instruments that provide features that are not disclosed in the references cited by the Examiner. Particularly, independent claims 1, 14, and 15, and claims 2-13 dependent on claim 1, feature, among other things, computer systems and corresponding methods adopted to apply a price improvement to executed trades in the event that an offsetting trade occurs. As explained in the response to the previous office action, this aspect of the invention beneficially provides system users with a favorable price increase for trades that qualify as offsetting trades, such as those executed in the same security within a certain period of time from each other, as explained at page 13, lines 1-9. Neither Fraser nor Keiser, alone or in combination, disclose or otherwise suggest financial instrument trading systems or methods adopted to apply a price improvement to executed trades. The Examiner asserts that Fraser discloses the price improvement feature at col. 7, lines 46-57. The Applicants respectfully disagree. At col. 7, lines 46-57, Fraser outlines a process for gathering market data from on-line terminals, which is later filtered and distributed in real time back to the brokering stations, col. 7, line 58-col. 8, line 20, which is not a price improvement feature.

Claims 1, 14, and 15, and claims 2-13 dependent on claim 1, also feature computer systems and corresponding methods adopted to determine or compute a derived price, *e.g.*, in the event a national best bid and offer price is not available, and, with respect to claims 14 and 15, execute the trades at the derived price. Neither Fraser nor Keiser, alone or in combination, disclose or otherwise suggest financial instrument trading systems or methods adopted to determine or compute a derived price, and correspondingly, to execute trades at the derived price. The Examiner asserts that Fraser discloses the derived price feature at col. 8, lines 6-20. The Applicant's respectfully disagree on this point as well. At col. 8, lines 6-20, Fraser merely distributes market data collected from on-line terminals, which is not a derived price and is not executing trades at the derived price.

There is further no motivation to expand the teachings of the references cited by the Examiner to include price improvement features and derived price features as explained herein. The references cited by the Examiner, particularly Fraser and Keiser, do not disclose the possibility of trades crossing, as explained at page 13, lines 5-9 of the present application, and of there not being a quote available for a particular issue, as explained at page 9, lines, 3-5 of the present application. On the contrary, as was the case with the references cited in the previous office action, Fraser operates under the assumption that the markets in the particular issues provide sufficient liquidity, or, in the words of Fraser, "highly fluid and fast paced" to obviate such conditions, col. 8, line 31, which teaches away from the features of the present invention insofar as market liquidity prevents such conditions. Moreover, Keiser addresses the shortcomings associated with trading in smaller securities market by adding liquidity to the market, i.e., purchasing and selling the excess, col. 12, lines 49-62 where the virtual specialist program is shown to purchase as much as 80% of the unmatched shares, to essentially create the liquid market for smaller market securities that teaches away from the present invention.

The dependent claims are patentable for additional reasons. While deemed unnecessary to argue these additional reasons at this time, given the arguments presented above, the Applicant reserves the right to present such arguments should it become necessary or desirable to do so.

For the above reasons, the Applicant submits that their invention as claimed is patentable over the references cited by the Examiner. Accordingly, reconsideration and allowance of pending claims 1-15 is, therefore, respectfully solicited. To expedite the prosecution, the Examiner is invited to contact the Applicant's undersigned representative at 212-895-2905.

Respectfully submitted,

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I hereby certify that this paper and any accompanying papers referenced herein are being deposited this date with the U.S. Postal Service as First Class Mail with sufficient postage addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Antonio Papageorgiou — Date July 29, 2004